

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :  
: 07-CR-00641 (NGG)  
:  
:  
v. : 225 Cadman Plaza East  
: Brooklyn, New York  
ZEV SALTSMAN, :  
: July 24, 2009  
Defendant. :  
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TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT  
BEFORE THE HONORABLE MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: ILENE WEININGER JAROSLAW, ESQ.  
United States Attorneys Office  
271 Cadman Plaza East  
Brooklyn, New York 11201

For the Defendant: BENJAMIN BRAFMAN, ESQ.  
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Proceedings recorded by electronic sound recording, transcript  
produced by transcription service

1 (Proceedings began at 11:43 a.m.)

2 COURT CLERK: Criminal cause for arraignment, case  
3 number 07-0641, United States v. Zev Saltsman. Counsel, your  
4 name for the record.

5 MS. JAROSLAW: For the Government Ilene Jaroslaw.  
6 Good morning, Your Honor.

7 MR. BRAFMAN: For Mr. Saltsman, Ben Brafman and  
8 Karen Newirth. Good morning, Your Honor.

9 THE COURT: Good morning.

10 MS. JAROSLAW: Your Honor, we're here today for  
11 initial hearings of Mr. Saltsman and an arraignment on a 19-  
12 count indictment. There was an extradition proceeding pending  
13 against Mr. Saltsman. The Court ruled that he be extradited  
14 and Mr. Saltsman took an appeal. Based on an agreement with  
15 the Government regarding a bail package Mr. Saltsman agreed to  
16 withdraw his appeal in the extradition matter and he arrived  
17 at Kennedy Airport last night.

18 MR. BRAFMAN: And, Your Honor, we have an agreed  
19 bail package which is quite significant. I'm happy, Your  
20 Honor, at any point --

21 THE COURT: Well, if it's his initial appearance in  
22 this case let's do the arraignment first.

23 MR. BRAFMAN: Yes, ma'am, I'm sorry.

24 THE COURT: Now, Mr. Brafman, have you received a  
25 copy of the 19 count indictment in this matter and discussed

1 with your client the charges set forth on the first four  
2 counts -- the first three counts pertaining to securities  
3 fraud and the [inaudible] money laundering as well as  
4 forfeiture?

5 MR. BRAFMAN: Yes, Your Honor, I traveled to London  
6 and met with Saltsman. We had an extensive meeting concerning  
7 the indictment. He has had other counsel as well and he's  
8 familiar with the charges and we waive a formal reading of the  
9 indictment.

10 THE COURT: Do you understand the nature of the  
11 charges?

12 THE DEFENDANT: Yes.

13 THE COURT: Is your client prepared to enter a plea  
14 to the charges and the superseding indictment in this matter?

15 MR. BRAFMAN: We're pleading -- entering a plea of  
16 not guilty at this time, Your Honor.

17 THE COURT: Okay. Back to the bail issue.

18 MR. BRAFMAN: Yes. Your Honor, if I may with  
19 assistance of Ms. Jaroslaw, and I thank her for the courtesy  
20 extended, that Mr. Saltsman did waive extradition and there  
21 was a bail package that we have agreed to. The particulars of  
22 the bail package are as follows. He withdrew the appeal of  
23 extradition. He also withdrew his objections to the United  
24 States MLAT request in Luxembourg for certain bank records and  
25 we have provided copies of those letters to the Government.

1 The bail package is a five million dollar bond that is secured  
2 by \$3,250,000.00 in cash, two point -- \$2,250,000.00 has  
3 already been deposited with the Clerk of the Court and we have  
4 a copy of the receipt which we've shown to --

5 MS. JAROSLAW: Yes.

6 THE COURT: I have that.

7 MR. BRAFMAN: Okay. And we have an understanding  
8 with the Government that the additional million dollars is to  
9 be transferred directly from London where that was posted as  
10 bail there. They wouldn't release it until he actually  
11 arrived here. The understanding is that that's to be released  
12 directly to my special account, not to Mr. Saltsman. When it  
13 hits my account I am to deposit it with the Clerk of the Court  
14 and we've given the Government the letter verifying our  
15 intention to do so. And there is a letter that also went to  
16 London and an agreement directing them to transfer the assets  
17 directly to my special account. So I think we have an  
18 understanding that that additional money will be deposited  
19 within two weeks or sooner as soon as it gets here.

20 MS. JAROSLAW: That's correct, Your Honor.

21 MR. BRAFMAN: And --

22 THE COURT: Okay. Three and a half million dollars?

23 MR. BRAFMAN: No, there's three -- the cash  
24 portion --

25 MS. JAROSLAW: 3.35.

1           MR. BRAFMAN: -- is \$3,250,000.00. We've already  
2 posted \$2,250,000.00, so we are obligated to post another  
3 million dollars when that bail hits my account and we're  
4 hopeful it should be within two weeks. If earlier, as soon as  
5 it gets here and clears, we'll deposit it and I represent to  
6 you as an officer of the Court that the money will not be  
7 released to anyone else than the Clerk of the Court.

8           Mr. Saltsman is going to be living with his in-laws  
9 who is present in the court at 640 Euclid Avenue, West  
10 Hempstead, New York, property coned -- co-owned by the  
11 defendant and his mother-in-law who is present in the court.  
12 There is -- there are going to be three sureters who will be  
13 signing a five million-dollar bond who are Yaffa Silverberg,  
14 Gershon Fluk, F-L-U-K, and Ari B-E-R-G-M-A-N. Those names and  
15 addresses have been given to your courtroom deputy.

16           By agreement with the Government subject to Your  
17 Honor's approval Mr. Saltsman will be permitted to travel  
18 within the state of New York, the state of New Jersey, the  
19 state of Pennsylvania and Detroit, Michigan and surrounding  
20 area for family visits. The sureters are present in the Court  
21 and I have personally explained the conditions of the bond and  
22 they are prepared to appear and answer Your Honor's questions,  
23 recognize -- verify that they know and understand the  
24 conditions of the bond.

25           MS. JAROSLAW: And, Your Honor, if I may add Mrs.

1 Silverberg and Mr. Saltsman own the house in West Hempstead  
2 and they represented to me that they will file a confession of  
3 judgment in Nassau County by this Wednesday. Further, the  
4 defendant has surrendered both of his Israeli and United  
5 States passports and we've turn over those to Pretrial  
6 Services.

7 MR. BRAFMAN: That's correct, Your Honor. And the  
8 paperwork on the house will be filed in Nassau County by  
9 Wednesday and we will provide verification to Ms. Jaroslaw as  
10 soon as that's done.

11 [Pause in the proceedings.]

12 THE COURT: Could you ask the sureters to come up  
13 here?

14 MR. BRAFMAN: Yes. Ms. Bergman, Mr. Fluk and Ms.  
15 Silverberg [inaudible].

16 COURT CLERK: Can you raise your right hand?

17 (Sureters Bergman, Fluk and Silverberg, Sworn.)

18 COURT CLERK: Can you state your name for the  
19 record?

20 MR. BERGMAN: Ari Bergman.

21 MR. FLUK: Gerson M.L.[Ph.] Fluk.

22 MS. SILVERBERG: And Yaffa Silverberg.

23 COURT CLERK: Thank you.

24 THE COURT: You've all taken an oath, an oath  
25 affirmed -- an affirmation to tell the truth and I want to

1 warn you that if you don't you could be prosecuted for perjury  
2 against this Court would be [inaudible] statements in  
3 determining whether or not true.

4 Now, Ms. Silverberg, I understand you are married  
5 to --

6 MR. BRAFMAN: Mother-in-law.

7 THE COURT: Mother-in-law -- the mother-in-law. All  
8 right. And you -- you and Mr. Saltsman --

9 THE DEFENDANT: Yes.

10 THE COURT: -- are the owners of a -- of some  
11 premises in West Hempstead at 640 Euclid Avenue?

12 [Judge's microphone is turned on.]

13 THE COURT: Oh, I'm sorry. Okay. I had turned it  
14 off. Yes. Are you the co-owner of a house at 640 Euclid  
15 Avenue in West Hempstead?

16 MS. SILVERBERG: Yes.

17 THE COURT: With Mr. Saltsman?

18 MS. SILVERBERG: [Inaudible.]

19 THE COURT: Is there any mortgage on that house?

20 MS. SILVERBERG: [Inaudible.]

21 THE COURT: Okay. And would you agree as a  
22 condition of the bond that you would file appropriate  
23 documentation to evidence the -- that the house is secured by  
24 the bond that may be set in the amount of five million  
25 dollars?

1 MS. SILVERBERG: [Inaudible.]

2 THE COURT: Okay.

3 THE COURT: Okay. And you will not further encumber  
4 the property -- you will not encumber the property, take any  
5 mortgages or --

6 MS. SILVERBERG: [Inaudible.]

7 THE COURT: Okay. Mr. Fluk?

8 MR. FLUK: Yes.

9 THE COURT: What is your relationship with Mr.  
10 Saltsman?

11 MR. FLUK: Mrs. Silverberg is my first cousin.

12 THE COURT: Okay.

13 MR. FLUK: She's in the family.

14 THE COURT: Okay. How long have you known Mr.  
15 Saltsman?

16 MR. FLUK: Since he got married to his wife.  
17 Nineteen years ago.

18 THE COURT: Okay. All right. What do you do for  
19 work?

20 MR. FLUK: I'm an attorney.

21 THE COURT: Okay. What is your income?

22 MR. FLUK: Over \$300,000.00.

23 THE COURT: Do you have any dependents?

24 MR. FLUK: I have a home, one dependent.

25 THE COURT: And sometimes they come back and bother



1 you afterwards. Okay.

2 MR. FLUK: We let them stay rent free at my house.

3 THE COURT: Okay. Mr. Bergman, what is your  
4 relationship with the defendant?

5 MR. BERGMAN: [Inaudible.]

6 THE COURT: How long have you known him?

7 MR. BERGMAN: Approximately [inaudible].

8 THE COURT: Okay. What is your income?

9 MR. BERGMAN: Approximately [inaudible].

10 THE COURT: What do you do for work?

11 MR. BERGMAN: Investment manager.

12 THE COURT: Yes. At a securities firm?

13 MR. BERGMAN: No. I have my own cash firm [Ph.].

14 THE COURT: Okay. So have you been able to make  
15 money this last year?

16 MR. BERGMAN: Thank God, Yes.

17 THE COURT: Okay. Do you have any dependents?

18 MR. BERGMAN: Yes.

19 THE COURT: And how many?

20 MR. BERGMAN: I have at home two.

21 THE COURT: Okay. I think there's satisfactory  
22 sureties. Now I just want all three of you to understand the  
23 nature of the charges against Mr. Saltsman. They are very  
24 serious charges. I don't know if you've had a chance to look  
25 at the indictment. It's --

1 MR. BRAFMAN: Maybe if you could explain the nature  
2 of the charges to the sureters.

3 THE COURT: Okay. And what's not clear from the  
4 indictment is the amount of the securities fraud that the  
5 Government estimates.

6 MS. JAROSLAW: Well, there is a loss in excess of 15  
7 [Ph.] million dollars.

8 THE COURT: Okay. And -- and the money laundering  
9 charges do indicate that the losses are -- amount to about 15  
10 million dollars from my eyeballing of the amounts listed in  
11 the indictment. So given the large amounts of money involved  
12 it is clear that -- to me that if Mr. Saltsman is found guilty  
13 of those charges he could very well face a very long prison  
14 sentence and may have a lot of incentive to flee and not face  
15 the charges. Do you understand that? Yes?

16 Okay. Now he will -- he will be released from  
17 custody if you agree to co-sign a bond in the amount of five  
18 million dollars. And I do think it's a little low but in  
19 light of the fact he did voluntarily appear in the United  
20 States, I'm willing certainly to abide by the Government's  
21 agreement with Mr. Saltsman.

22 If he fails to appear in court you -- all of you who  
23 signed the bond will owe the Government five million dollars.  
24 Now, to insure that the Government can collect, as you've  
25 heard us discuss earlier, \$3,250,000.00 will be deposited with

1 this Court so your actual obligation is likely to be  
2 \$1,750,000.00. And you are jointly and severally liable on  
3 this bond, which means the Government could collect from any  
4 one of you or from all three of you up to that amount. It  
5 will do so by taking anything of value you may own. And, Ms.  
6 Silverberg, you do risk losing your home but irrespective of  
7 what the market value of the home will be if the home is  
8 forfeited and the Government does not need to choose to  
9 proceed that way, the Government could seize to coll -- choose  
10 to collect from the other two sureties. The home is likely  
11 not to be sold close to market value in forfeiture. Do you  
12 all understand that?

13 And so you risk having your assets subject to the  
14 collection efforts of the Government having any real estate,  
15 bank accounts or any other things of value seized and  
16 forfeited and having any income garnished and being -- and you  
17 also risk being subject to the collection of efforts -- to  
18 the collection efforts of the Government until every cent  
19 that's outstanding is paid in full. Do you understand?

20 THE COURT: Do you have any questions about your  
21 obligations?

22 No. Okay. Are you willing to sign this bond for  
23 five million dollars?

24 SURETERS: Yes.

25 THE COURT: Yes. Okay. Now when -- is the

1 Government consenting to release of the defendant prior to the  
2 deposit of the remaining funds?

3 MS. JAROSLAW: Yes, Your Honor.

4 THE COURT: Okay. And prior to the filing of a  
5 confession of judgment?

6 MS. JAROSLAW: Yes.

7 THE COURT: Okay. So, Ms. Silverberg, you will have  
8 to sign appropriate documentation so that a confession of  
9 judgment can be filed against your home and returned to the  
10 court by July 29th.

11 MS. SILVERBERG: Yes.

12 [Pause in the proceedings.]

13 THE COURT: Mr. Saltsman, I'm going to go over the  
14 conditions of release. It's important you comply with them  
15 because if you don't the Government could seek to come back to  
16 court and have you detained. Now, the most important  
17 condition is that you come back to court and if you fail to do  
18 so you will cause great financial hardship to your friends and  
19 relatives. In addition, the Court will issue a warrant for  
20 your arrest and you could be prosecuted for failing to appear  
21 in court and if convicted subject to criminal penalties  
22 including imprisonment and a fine in addition to whatever  
23 penalties could be imposed and the charges set forth in the  
24 indictment. Your travel will be restricted to New York state,  
25 New Jersey, Pennsylvania and Detroit.

1 MS. JAROSLAW: Yes, Detroit [inaudible].

2 THE COURT: And that's only for -- to visit family.

3 Yeah.

4 MR. BRAFMAN: Travel with family. Visit family,  
5 travel with family.

6 [Pause in the proceedings.]

7 THE COURT: I understand his passport has been  
8 seized -- surrendered?

9 MS. JAROSLAW: Yes. There are two passports, an  
10 Israeli passport and a United States passport and Pretrial  
11 Services has custody of both of them.

12 THE COURT: You are not to apply for any other  
13 passport. You -- I will place you under the supervision of  
14 Pretrial Services and you will be subject to reporting as  
15 required by Pretrial Services and as well as random visits at  
16 your residence and any place of employment.

17 The final condition is that you not commit any other  
18 crime while on release and I'm advising you that if you tamper  
19 with evidence, intimidate witnesses or otherwise obstruct an  
20 investigation those are federal crimes and you could be  
21 subject to greater penalties than could ordinarily be imposed  
22 if you commit those crimes while on release. Do you  
23 understand?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. So I'd like the sureties to sign

1 on the lines above their printed names. The terms of the bond  
2 are above the signature lines as well as on the top half of  
3 the back of the form.

4 MR. BRAFMAN: Your Honor, to save time I want to  
5 represent as an officer of the court that I went over the  
6 conditions of the bond with each of the sureters, both the  
7 front and the back. You have a very efficient deputy who gave  
8 me a heads up to do that so I've done that.

9 THE COURT: Okay. Good. Do you understand the  
10 terms of the bond that --

11 MS. SILVERBERG: Yes, we do.

12 THE COURT: -- are printed on this form? Thanks.  
13 Just sign above your name.

14 [Pause in the proceedings.]

15 MR. BRAFMAN: Your Honor, all three sureters and the  
16 defendant have signed the bond.

17 THE COURT: Okay. And one condition I'm just  
18 adding, which I didn't add, is that -- is the timing of the  
19 payments to be deposited -- the cash to be deposited with the  
20 Court so what's the outer limit of the time?

21 MR. BRAFMAN: I'm told two weeks. We have no  
22 control. The money is coming from the Clerk of the Court in  
23 London directly to my special account.

24 THE COURT: Okay. So how about --

25 MR. BRAFMAN: Maybe two weeks will do it. If it

1 comes earlier I'll notify Ms. Jaroslaw if it comes. If they  
2 tell me it's going to take longer I will notify Ms. Jaroslaw  
3 and she can verify that it's not our fault and if we need to  
4 come back we'll come back and --

5 THE COURT: Then you can make a letter application.

6 MR. BRAFMAN: Yes.

7 THE COURT: Shall I just give you a little more time  
8 and then -- maybe the 14th of --

9 MR. BRAFMAN: That's fine.

10 THE COURT: -- August and that should give you a lot  
11 of extra time.

12 MR. BRAFMAN: The money is not going to Mr. Saltsman  
13 under any circumstances. They have our special account  
14 information from my firm so I represent to you that once it  
15 gets there the only place it will go is to the Clerk of the  
16 Court absent the court order for the time being.

17 [Pause in the proceedings.]

18 THE COURT: Ms. Silverberg, Mr. Fluk and Mr.  
19 Bergman, are these your -- a signature -- signatures on the  
20 bond?

21 WITNESSES: Yes.

22 THE COURT: Yes. And are the addresses correct?

23 WITNESSES: Yes.

24 THE COURT: Okay. Okay.

25 (Proceedings concluded at 12:03 p.m.)

1 I certify that the foregoing is a court transcript  
2 from an electronic sound recording of the proceedings in the  
3 above-entitled matter.

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Ruth Ann Hager

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10 Dated: July 14, 2011  
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